

# Proposed Rules

Federal Register

Vol. 62, No. 204

Wednesday, October 22, 1997

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Parts 966 and 980

[Docket No. FV97-966-1 PR]

#### Tomatoes Grown in Florida and Imported Tomatoes; Reopening of Comment Period on Changing Minimum Size and Size Designation Requirements

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Reopening of the comment period.

**SUMMARY:** Notice is hereby given that the comment period on proposed changes in the minimum size and size designation requirements for Florida and imported tomatoes is reopened until November 5, 1997.

**DATES:** Comments must be received by November 5, 1997.

**ADDRESSES:** Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456, Fax: (202) 720-5698. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** George Kelhart, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; Telephone: (202) 720-2491, Fax: (202) 720-5698. Small businesses may request information on compliance with this proposed regulation by contacting: Jay Guerber, Marketing Order Information Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456;

Telephone: (202) 720-2491, Fax: (202) 720-5698.

**SUPPLEMENTARY INFORMATION:** A proposed rule was issued on October 2, 1997, and published in the **Federal Register** (62 FR 52047; October 6, 1997). The proposed rule would increase the minimum diameter size requirement for Florida and imported tomatoes from 2<sup>9</sup>/<sub>32</sub> inches to 2<sup>9</sup>/<sub>32</sub> inches. For Florida tomatoes alone, the rule would change the size designations from Medium, Large, Extra Large to numeric size designations of 6 × 7, 6 × 6, and 5 × 6. The proposal also would slightly increase the diameter size ranges for the designated sizes. The comment period ended October 16, 1997.

The Secretaria de Comercio Y Fomento Industrial (SECOFI) of Mexico requested that additional time be provided for interested persons to comment on the proposed rule. SECOFI stated that U.S. tomato imports from Mexico have accounted for over 30 percent of U.S. consumption during the marketing order season, on average, over the past 10 years, and that the proposed measures would have a direct and important impact on Mexican producers and exporters. SECOFI further stated that it first became aware of the proposal only after it was published in the **Federal Register**, and that Mexican producers were not given advance notice and allowed to prepare for the possible change. The request indicated that immediate implementation of the proposal could seriously disrupt Mexican exports.

SECOFI also pointed out that Article 1802 of the North American Free Trade Agreement (NAFTA) requires that proposed regulatory measures affecting trade be published in advance, and that interested persons and the NAFTA country governments be provided a "reasonable opportunity" to comment on those proposed measures. SECOFI indicated that the 10-day time limit did not give a "reasonable opportunity" for comments, and requested that the comment period be extended for 60 additional days.

Providing an additional 60 days for comments would delay the final decision on these proposed measures until January of 1998. This is not acceptable because these measures, if adopted, should apply to as much of the 1997-98 domestic and import shipping seasons as possible. The Florida tomato

industry has just begun harvesting, packing, and shipping 1997-98 season tomatoes, while Mexico exports to the U.S. each month of the year, with the most significant shipping period starting in mid-December.

Article 909.1(a) of NAFTA generally requires at least a 60-day notice period prior to the adoption or modification of a technical regulation, but, for a technical regulation relating to perishable goods, a 30-day notice prior to adoption of a regulation can be used.

After reviewing the situation, and in accordance with NAFTA, the Department is reopening the comment period for 20 additional days or until November 5, 1997. This will provide interested persons a total of 30 days to review the proposed rule, perform a more complete analysis, and submit any written comments.

This delay should not substantially add to the time required to complete this rulemaking action. Accordingly, the period in which to file written comments is reopened until November 5, 1997. This notice is issued pursuant to the Agricultural Marketing Agreement Act of 1937.

**Authority:** 7 U.S.C. 601-674.

Dated: October 17, 1997.

**Robert C. Keeney,**

*Deputy Administrator, Fruit and Vegetable Programs.*

[FR Doc. 97-28020 Filed 10-20-97; 8:45 am]

BILLING CODE 3410-02-P

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

#### 10 CFR Part 430

[Docket No. EE-DET-97-550]

RIN 1904-AA85

#### Energy Conservation Program for Consumer Products: Determination Concerning the Potential for Energy Conservation Standards for Electric Distribution Transformers

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

**ACTION:** Notice of Determination.

**SUMMARY:** The Department of Energy (DOE or the Department) has